

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DIANE DENMARK,

Plaintiff

v.

LIBERTY LIFE ASSURANCE COMPANY OF
BOSTON, THE GENRAD, INC. LONG TERM
DISABILITY PLAN, THROUGH
TERADYNE, INC., AS SUCCESSOR
FIDUCIARY

Defendants

Civil Action No. 04-12261-DPW

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants, Liberty Life Assurance Company of Boston ("Liberty Life") and The Genrad Inc. Long Term Disability Plan, through Teradyne, Inc., as Successor Fiduciary ("The Plan"), move pursuant to Fed. R. Civ. P. 56 for summary judgment on Plaintiff's Complaint on the grounds that there are no material facts in dispute and Defendants are entitled to judgment as a matter of law. Further, Liberty Life is entitled to summary judgment on Plaintiff's contract claim based on preemption grounds. Defendants submit a supporting memorandum, statement of undisputed material facts, and the Declaration of Paula McGee in support of their motion. As set forth in detail in their supporting memorandum, Defendants are entitled to judgment of Plaintiff's Complaint because the decision to deny Plaintiff's application for long-term disability benefits was reasonable and was not "arbitrary and capricious."

For these reasons, Defendants respectfully submit that summary judgment should enter on their behalf on Plaintiff's Complaint.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

Counsel for Defendants hereby certify that they conferred with Plaintiff's counsel and were unable to resolve or narrow the issues in this Motion except as explained in footnote 2 of the Memorandum of Law filed herewith.

Respectfully submitted,

LIBERTY LIFE ASSURANCE COMPANY
OF BOSTON, THE GENRAD, INC. LONG TERM
DISABILITY PLAN, THROUGH TERADYNE,
INC., AS SUCCESSOR FIDUCIARY

By their attorneys,

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